

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

FIRST-CLASS PACKAGE SERVICE (FCPS),
SERVICE STANDARD CHANGES, 2021

Docket No. N2021-2

**NOTICE OF UNITED STATES POSTAL SERVICE OF FILING
OF LIBRARY REFERENCES AND APPLICATION FOR NON-PUBLIC TREATMENT**
(June 17, 2021)

In accordance with Rule 31(b)(2), the United States Postal Service (Postal Service) hereby provides notice today that it is filing four public library references and three non-public library references to support its direct case and to aid the Postal Regulatory Commission's consideration of the Postal Service's Request for an advisory opinion in this docket. The preface page filed with each library reference reflects its category.

Docket No. N2021-2 Master Library Reference Lists -- Public and Non-Public

Public

	<u>Title</u>	<u>Witness</u>
LR-N2021-2-1	Calculating Transportation Cost Changes	Kim
LR-N2021-2-2	Model Input Data	Hagenstein
LR-N2021-2-3	Model Defining Tools	Hagenstein
LR-N2021-2-4	Model Results	Hagenstein

Non-Public

	<u>Title</u>	<u>Witness</u>
LR-N2021-2-NP1	Calculating Transportation Cost Changes	Kim

LR-N2021-2-NP2	Model Input Data and Results	Hagenstein
LR-N2021-2-NP3	First-Class Package Service Transit Commitment Survey	Foti

The materials for the four public library references have been uploaded to the Public Library References folder on the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT), and the materials for the three non-public library references have been uploaded to the Non-public Library References folder on USPS SLFT.

An application for non-public treatment and protective conditions for materials within the three non-public library references listed above is attached to this Notice.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Richard Cooper
Managing Counsel
Corporate and Postal Business Law

Anthony Alverno
Chief Counsel, Global Business & Service
Development

B.J. Meadows III
Sean Robinson

Attorneys

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1135
(202) 268-8405; Fax -5402
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APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT

In accordance with 39 C.F.R. § 3011.201, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The materials covered by this application include the following library references: (i) USPS-LR-N2021-2-NP1, "Calculating Transportation Cost Changes"; (ii) USPS-LR-N2021-2-NP2, "Model Input Data and Service Performance Data"; and (iii) USPS-LR-N2021-2-NP3, "First-Class Package Service Transit Commitment Survey." As noted below, public versions of the first two library references are being filed with the protected information redacted or removed.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3011.201 below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials.

The materials designated as non-public consist of commercial information concerning postal operations and finances, competitive product service performance data, as well as market research on the FCPS product developed by an external research firm and procured by the Postal Service. This is information that, under good business practice, would not be disclosed publicly. Based on its long-standing and deep familiarity with postal and communications business and markets generally, and its knowledge of many firms, including competitors, mailers, and suppliers, the Postal Service does not believe that any commercial enterprise would voluntarily publish detailed information pertaining to its transportation costs and volumes, as well as detailed operational information combined with disaggregated information related to service performance. In the Postal Service's view, this information would be exempt from

mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and (c)(5) and 5 U.S.C. § 552(b)(3).¹

(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.²

The Postal Service has a proprietary interest in the information contained within the non-public materials. The Postal Service designates Micah T. Zomer to accept actual notice of a motion related to the non-public material or notice of the pendency of a subpoena or order requiring production of the materials. Mr. Zomer's email address is micah.t.zomer@usps.gov, and his telephone number is 202-657-2918.

¹ In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 4679, Order Adopting Final Rules Relating to Non-Public Information, Docket No. RM2018-3 (June 27, 2018) at 16 (reconfirming that the adopted final rules do not alter this long-standing practice); PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

² Section 3011.201(b)(2) further states the following:

(i) If the submitter has a proprietary interest in the information contained within the materials, identification of an individual designated by the submitter to accept actual notice of a motion related to the non-public materials or notice of the pendency of a subpoena or order requiring production of the materials.

(ii) If any person other than the submitter has a proprietary interest in the information contained within the materials, identification of each person who is known to have a proprietary interest in the information. If such an identification is sensitive or impracticable, an explanation shall be provided along with the identification of an individual designated by the submitter to provide notice to each affected person.

(iii) If both the submitter and any person other than the submitter have a proprietary interest in the information contained within the non-public materials, identification in accordance with both paragraphs (b)(2)(i) and (ii) of this section shall be provided. The submitter may designate the same individual to fulfill the requirements of paragraphs (b)(2)(i) and (ii) of this section.

(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.

The “Calculating Transportation Cost Changes” library reference contains detailed volume and cost information regarding purchased transportation. Specifically, this library reference details the pounds and cubic feet of mail and packages, including competitive products, transported by various carriers and the cost to the Postal Service of using those carriers to transport such mail and packages. The library reference consists of one Excel workbook, Transportation Savings-NonPublic.xlsx, with six tabs: Summary, Calculate Air Change Lbs Flown, Air, Highway, Potential-Charter, and Potential-NDC Network. The public counterpart for this library reference can be found at USPS-LR-N2021-2-1.

The “Model Input Data and Service Performance Data” library reference has seven files in its root folder. Files one through three contain data that reveal the volume, modes of transportation, and transportation windows for competitive products, as well as information about service performance of competitive products:

1. **1_WebOdin_Private.txt**: volume file containing 3-digit to 3-digit volumes by class and shape. The public counterpart can be found at N2021-2-2 “1_WebOdin_Public.txt.”

2. **3_Mode Mapping_Private.xlsx**: a current state mode matrix, is pulled from the USPS Distribution Table Maintenance System (DTMS). The public counterpart can be found at N2021-2-2 “3_Mode Mapping_Public.xlsx.”

3. **5_Shipment Table_Private.xlsx**: contains the origin and destination pair volumes the model references to optimize. Each shipment must consist of an origin,

destination, transportation window, product and volume. The public counterpart can be found at N2021-2-2 “5_Shipment Table_Public.xlsx.”

File four contains (a) 3-Digit ZIP Code origin and destination pairs, class, shape, and volume data for competitive products; (b) data designating the approved mode of transportation for competitive products between every 3-Digit ZIP Code origin and destination pair in the country; and (c) for every 3-Digit ZIP Code origin-destination pair, the transportation window, product, and volume for competitive products:

4. **10_3digit_FCPS_Private.xlsx:** pair files for FCPS. This contains pairs and volumes for current versus proposed service standards. The 3 Digit Impact tab includes the upgrades and downgrade by pairs by service standard. The public counterpart can be found at N2021-2-4 “10_3digit_FCPS_Public.xlsx.”

Files five and six contain results of an analysis of Informed Visibility Service Performance Metrics (Enterprise Analytics) data comparing quarterly on-time performance of packages transported using air versus surface transportation modes:

5. **12_FC Packages FY19-FY21 - Air vs Surf.xlsx:** summarizes service performance for FCPS from FY20 and FY21, by Postal Quarters, comparing air versus surface on-time delivery performance. There is no public counterpart for this file.

6. **13_FC Packages Svc Perf FY20 FY21 by Quarter and FY.xlsx:** summarizes service performance for FCPS from FY20 and FY21, by Postal Quarters, comparing 2-day versus 3-day on-time delivery performance. There is no public counterpart for this file.

File seven contains data that reveals volume and mileage data for competitive products:

7. **14_SSD_5D_Vol_Impacts_CONUS_NP.xlsx:** summary of model output

showing baseline versus proposed mileage by category, and volumes proposed to shift from air to surface transportation. The public counterpart can be found at N2021-2-4 “14_SSD_5D_Vol_Impacts_CONUS_Public.xlsx.”

The “First-Class Package Service Transit Commitment Survey” library reference is a PowerPoint document that contains the results of a market research survey conducted by an outside firm retained by the Postal Service. The objectives of the survey were to assess if, and how much, volume would switch to other delivery services if the proposed service standard changes at issue here are implemented. The survey includes information regarding customer behavior, including volume information, with respect to Postal Service products that are subject to competition. There is no public counterpart for this library reference.

(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.

If the information the Postal Service determined to be protected from disclosure due to its commercially sensitive nature were to be disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. This information is clearly commercially sensitive to the Postal Service, and the Postal Service does not believe that it would be disclosed under good business practice. In this regard, the Postal Service is not aware of any business with which it competes (or in any other commercial enterprise), either within industries engaged in the carriage and delivery of packages, or those engaged in communications generally, that would disclose publicly information and data of comparable nature at a disaggregated level and with the details furnished here.

The data and information considered to be non-public consists of: (i) transportation cost, weight and volume information for competitive products; (ii) the modes of transportation, transportation window, and on-time performance data for

competitive products; (iii) nonpublic service performance information of competitive products; and (iv) proprietary market research information pertaining to Postal Service customer behavior, including volume information, related to competitive products.

The Postal Service, which currently engages and will continue to engage in contracts for air and surface transportation services, has a strong interest in being able to obtain the best prices possible. Revealing the Postal Service's cost, weight, and volume data with respect to certain transportation suppliers has the potential for interfering with the procurement process and defeating the Postal Service's interest in obtaining beneficial arrangements. Transportation suppliers could potentially use the transportation cost, weight, and volume information to seek higher prices for the services they provide.

Disclosing the volume, mode of transportation, transportation window, and on-time performance data for competitive products – *i.e.*, a category of postal products for which similar products are offered by private sector carriers – would unfairly, to the economic detriment of the Postal Service, permit competitors to:

- gain specific insight into modes of transportation, customer usage patterns, and level of performance;
- better gauge the size of the competitive product market in specific service areas; and
- develop strategies for determining what marketing resources to devote to further penetration of specific local markets.

Disclosing the market research information pertaining to Postal Service customer behavior, including volume-related information, could provide insight to Postal Service competitors who seek to attract the business of those same customers. Postal Service competitors could use such information to position their products in such a way as to compete unfairly against the Postal Service. Further, competitors able to view the market research materials would gain specific insight into Postal Service customer behavior and

the broader market share information, enabling them to capture the benefit of market research in which the Postal Service has invested without any need to procure their own market research.

(5) At least one specific hypothetical, illustrative example of each alleged harm.

Harm: Public disclosure of transportation costs for certain suppliers, together with the weight and volume information, would provide transportation suppliers extraordinary negotiating power.

Hypothetical: An air transportation supplier or its representative obtains a copy of the unredacted version of Library Reference USPS-LR-N2021-2-NP1. The supplier has already been in negotiations to provide air transportation services to the Postal Service and has determined an appropriate price to fit the supplier's cost structure. The supplier sees the Postal Service's average per-pound transportation costs and uses that information as a justification for pricing demands in negotiations. The Postal Service's ability to negotiate the best value from the bargain suffers as a result. The same scenario would apply to a transportation supplier's ability to position itself in future, rather than ongoing, negotiations with the Postal Service, based on what the supplier knows, or believes it knows, about what the Postal Service is willing to pay.

Harm: Public disclosure of the competitive product volume or operational data in library reference USPS-LR-N2021-2-NP2 would be used by competitors of the Postal Service to the detriment of the Postal Service.

Hypothetical: A competitor's representative obtains access to the data in Library Reference USPS-LR-N2021-2-NP2. It analyzes the data to assess the nature and scale of that portion of the Postal Service's competitive product business originating in a particular market in which that competitor operates or seeks to operate. Based upon these data, the competitor assesses the extent to

which it wishes to adjust its product offerings, prices, operations and marketing activities to compete for the volume represented by these data. That competitor gains valuable market intelligence without having to make an investment in research. The competitor then can tailor marketing and/or pricing campaigns to acquire customers' business with the consequent loss of volume, revenue and market share to the Postal Service, which has no similar ability to access data regarding its competitors' expedited package volumes.

Harm: Public disclosure of the results of the analysis of Informed Visibility Service Performance Metrics (Enterprise Analytics) data at USPS-LR-N2021-2-NP2, comparing quarterly on-time performance of packages transported using air versus surface transportation modes would give competitors asymmetrical insight into the Postal Service's on-time service performance.

Hypothetical: A competing package delivery provider or its representative obtains a copy of the unredacted version of Library Reference USPS-LR-N2021-2-NP2.

The competitor learns of the Postal Service's quarterly on-time performance rates for air and surface transportation and, correlating such data with its own performance and market intelligence, can adjust its own marketing, transportation, advertising, logistics, and pricing strategies to its unfair benefit and USPS's detriment. And, lacking comparable insight into its competitors' detailed service performance, the Postal Service faces a competitive disadvantage.

Harm: Public disclosure of the customer behavior and volume information in Library Reference USPS-LR-N2021-2-NP3 would be used by competitors of the Postal Service to the detriment of the Postal Service.

Hypothetical: A competitor's representative obtains access to data in Library Reference USPS-LR-N2021-2-NP3. It analyzes the data to roughly assess the nature and scale of the Postal Service's FCPS market in which that competitor operates or seeks to operate. Based upon these data, the competitor assesses the

extent to which it wishes to adjust its product offerings, prices, operations and marketing activities to compete for the volume represented by these data and to take advantage of the customer behavior information disclosed in the library reference. The competitor then can tailor marketing and/or pricing campaigns to acquire customers' business with the consequent loss of volume, revenue, and market share to the Postal Service.

Additionally, that competitor can gain valuable market research without having to make an investment in research while the Postal Service bears the burden of procuring the research.

(6) The extent of protection from public disclosure deemed to be necessary.

The Postal Service maintains that the portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets for air and surface transportation and competitive delivery products, including persons acting on behalf of the respective subjects of the non-public information, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3011.401(a). The Postal Service seeks full protection during this time period and thereafter.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.